

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

STATE OF NEW MEXICO *ex rel.*  
State Engineer, *et al.*,

Plaintiffs,

v.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941 MV/LFG  
Rio Chama Adjudication

Section 7, Village of Chama

Subfile No. CHCV-001-0005

**MEMORANDUM OPINION AND ORDER**

**THIS MATTER** comes before the Court on the State of New Mexico's Motion to Revise Consent Order Describing the Water Rights of the Chama Valley Independent School District No. 19 in Subfile CHCV-001-0005. (Doc. No. 10907, filed May 2, 2013). For the reasons stated below, the Court will **GRANT** the motion.

The State of New Mexico seeks to change the name of the point of diversion in the consent order for subfile no. CHCV-001-0005 from "M-B Ditch – Rio Chama" to "Chama Town Ditch." The State asserts that "[a]lthough this section of the irrigation ditch carries water to both tracts irrigated by the Chama Town Ditch and the M-B Ditch, the better description of this section of the ditch is the Chama Town Ditch, which was enlarged in this section under a permit and license from the State Engineer (OSE 1974) in order to also irrigate tracts of land under the M-B Ditch." (Motion at 1).

The Chama Valley Independent School District No. 19 opposes the State's motion on the ground that the "State does not support [its assertion that the better description of this section of the ditch is the Chama Town Ditch] by citing to any documents showing that the name of the ditch from which the School District diverts its water is now or has previously been known as the Chama Town

Ditch.” (Response at 1, Doc. No. 10912, filed May 15, 2013). The School District also asserts that it “has always known the ditch from which it diverts its water as the M-B Ditch,” that the “School District is a member of the M-B Ditch, pays dues to the M-B Ditch and deals with the Commissioners and Mayordomo of the M-B Ditch with respect to the District’s water right.” (Response at 1-2).

In its reply brief, the State discusses the history of the ditch and supports its discussion with several exhibits. (Reply, Doc. No. 10914, filed May 29, 2013). The ditch was constructed about 1900 and supplied water to the Town of Chama. A report on irrigation water supply published in 1910 refers to the ditch as the “Town Ditch.” (*See* Reply Ex. 1). In 1915, two individuals filed an application to appropriate water from the Rio Chama which would require enlarging and extending the ditch. The application, dated June 1915, states that the water from the Rio Chama would be diverted through “the Chama Town Ditch,” and the survey map submitted with the application refers to the ditch as the “Chama Town Ditch.” (*See* Reply Ex.s 5 and 6). Another application was filed in 1931 to appropriate water for distribution by the M-B Ditch. The map submitted with the 1931 application stated that water from the Rio Chama would be diverted to the M-B Ditch through the “Chama Town Ditch.” (*See* Reply Ex. 7).

According to the State, the “location where the School District takes its water for irrigation is situated along the upper portion of the original Chama Town Ditch above the take-off for water users located within the Town of Chama, and along that portion of the ditch that is used for the transport of water to the Martin and Borders Subdivision to the west of the Rio Chamita.” (Reply at 5). The map attached to the State’s motion shows the School District’s irrigated tract is located at the north end of the Town of Chama and east of the Chama Town Ditch. The map submitted with the application for the M-B Ditch shows that the M-B Ditch is located southwest of the Town of

Chama. (*See* Reply Ex. 7). The State contends that referring to the portion of ditch where the School District takes its water as the M-B Ditch could be misleading and confusing.

The Court will grant the State's motion. The information presented by the State shows that the ditch system at issue consists of two parts. The first part is the ditch that was constructed about 1900, diverted water out of the Rio Chama for irrigation in the Town of Chama, and was known as the Chama Town Ditch as early as 1915. The second part is the M-B Ditch, which was constructed after 1931 and is essentially an extension of the Chama Town Ditch. Water is diverted from the Rio Chama and flows down the Chama Town Ditch where some of the water is distributed for irrigation purposes in the Town of Chama; some of the water in the Chama Town Ditch is diverted to the M-B Ditch to irrigate lands southwest of the Town of Chama. The School District takes its water from that portion of the ditch system which is known as the Chama Town Ditch and not from the portion known as the M-B Ditch. The Court agrees that to avoid confusion, the Consent Order describing the water rights of the Chama Valley Independent School District No. 19 for Subfile CHCV-001-0005 should be revised to show that the point of diversion is the Chama Town Ditch.

The water rights described in the Consent Order (Doc. No. 8611, filed April 4, 2007) in Subfile CHCV-001-0005 are revised as follows:

**Point of Diversion:**


**Ditch:** CHAMA TOWN DITCH

**Location:** X = 1,546,909 feet      Y = 2,155,273 feet  
New Mexico State Plane Coordinate system, Central Zone, NAD 1983

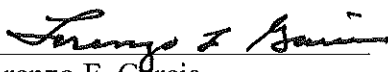
The subfile map attached hereto is substituted for the map attached to the Consent Order  
(Doc. No. 8611, filed April 4, 2007).

**IT IS SO ORDERED.**

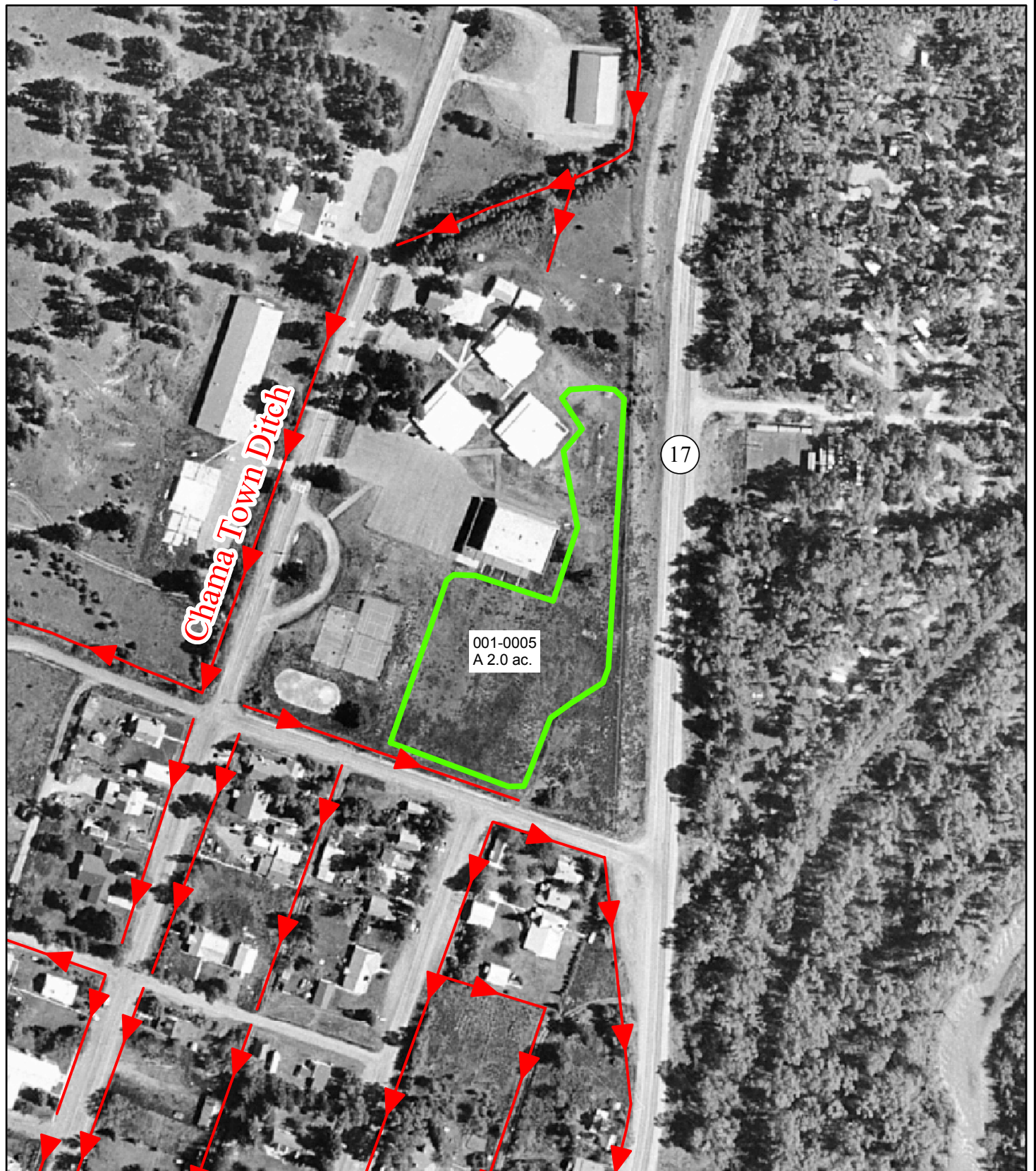
Dated this 2nd day of August, 2013.

  
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**MARTHA VAZQUEZ**  
**UNITED STATES DISTRICT JUDGE**










Approved:

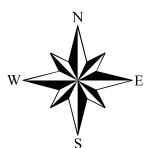
  
\_\_\_\_\_  
Lorenzo F. Garcia  
United States Magistrate Judge





# LEGEND

- |   |  |
|---|--|
|  Irrigated Tract Boundary   |  Point of Diversion |
|  No Right Tract Boundary    |  Fallow             |
|  Seeped Land                |  No Right           |
|  Operable Ditch / Lateral   |  |
|  Inoperable Ditch / Lateral |  |
|  Reservoir / Stock Pond     |  |



1 inch = 200 feet  
 0 50 100 200  
 Feet

STATE OF NEW MEXICO  
 Office of the State Engineer  
 Scott A. Verhines, P.E.,  
 State Engineer

Rio Chama Hydrographic Survey  
 Village of Chama Section

Subfile Number  
**CHCV 001-0005**  
 Chama Town Ditch  
 AMENDED  
 April 18, 2013

